

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MELISSA HALEY, et al., Individually and
On Behalf of All Others Similarly Situated,

Plaintiffs,

v.

TEACHERS INSURANCE AND ANNUITY
ASSOCIATION OF AMERICA,

Defendant.

Case No. 1:17-cv-00855-JPO

STIPULATION AND [PROPOSED] ORDER

WHEREAS, on November 24, 2020, Defendant Teachers Insurance and Annuity Association of America (“TIAA”) filed a Motion for Summary Judgment and supporting documents (ECF Nos. 118-125, the “TIAA Summary Judgment Motion”);

WHEREAS, also on November 24, 2020, Plaintiff Melissa Haley (“Plaintiff” and, collectively with TIAA, the “Parties”) filed a Motion for Summary Judgment and supporting documents (ECF Nos. 129-132, collectively the “Plaintiff Summary Judgment Motion”);

WHEREAS, also on November 24, 2020, TIAA filed a Motion to Strike or Preclude the Opinions of Plaintiff’s Expert and supporting documents (ECF Nos. 126-128, collectively the “Motion to Strike”);

WHEREAS, Section 3(E)(iv) of the Court’s Individual Practices in Civil Cases provides that “[i]f there are cross-motions for summary judgment addressing the same or overlapping issues, briefing will be *seriatim* rather than simultaneous”;

WHEREAS, the TIAA Summary Judgment Motion and Plaintiff Summary Judgment Motion address overlapping issues;

WHEREAS, Plaintiff wishes to make certain corrections to the Plaintiff Summary Judgment Motion;

WHEREAS, the Parties have agreed upon a seriatim briefing schedule;

NOW, THEREFORE, subject to the Court's approval, the Parties stipulate as follows:

1. TIAA hereby withdraws the TIAA Summary Judgment Motion without prejudice.
2. Plaintiff hereby withdraws the Plaintiff Summary Judgment Motion without prejudice.
3. By the next day on which the Court is open after the Court enters this Stipulation and Order, Plaintiff shall file a corrected Plaintiff Summary Judgment Motion.
4. On or before January 8, 2021:
 - (a) TIAA shall file a single brief of no more than 30 pages (not including supporting papers) in opposition to the Plaintiff Summary Judgment Motion and in support of the TIAA Summary Judgment Motion; and
 - (b) Plaintiff shall file a brief in opposition to the Motion to Strike.
5. On or before February 8, 2021:
 - (a) Plaintiff shall file a single brief of no more than 35 pages (not including supporting papers) both in support of the Plaintiff Summary Judgment Motion and in Opposition to the TIAA Summary Judgment Motion; and
 - (b) TIAA shall file a reply brief in support of the Motion to Strike.
6. On or before March 1, 2021, TIAA shall file a reply brief in support of the TIAA Summary Judgment Motion.

Respectfully submitted,

/s/ John J. Nestico (on consent)

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Attorneys for Plaintiffs

Dated: December 3, 2020

SO ORDERED.

Dated: December ___, 2020
New York, New York

/s/ Molly L. Leiwant

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Attorneys for Defendant

J. PAUL OETKEN
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on December 3, 2020 this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

/s/ Molly L. Leiwant
Molly L. Leiwant